IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

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WRIT PETITION NO : 11698 of 1995

Between**:**

1. B.Harikumaracharyulu S/o.late B.Venkatacharyulu
Aged about years, r/o: Dilsukhnagar, Hyderabad.
2. Boorugadda Girikumaracharyulu S/o.late

B.Venkatacharyulu, Aged about 29 years,
r/o: Kaman Bazar, Khammam

..... PETITIONERS

AND

1. Government of Andhra Pradesh represented by its

Secretary, Revenue (Endow-II) Department, Secretariat

Buildings, Hyderabad.
2. Regional Joint Commissioner of Endowments

Department, Multi Zone - III Hyderabad.
3. Deputy Commissioner of Endowments
Hyderabad.
4. Executive Officer, Sri Venkateswara Swamy Temple
Kaman Bazar Khammam
5. Sri Vedantam Srimannarayanacharlu S/o.Vedantam

Ramanujacharyulu, Sri Venkateswaraswamy Temple

Kaman Bazar, Khammam

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate, writ, order or direction, particularly a writ in the nature of certiorari calling for the records relating to an connected with Memo No.16181/ Endts.II-2/95-4, Dt.3/6/1995 of the 1st respondent.

Counsel for the Petitioners: MR.S.ASHOK ANAND KUMAR

Counsel for the Respondents 2 and 3: MR.K.MANIKYALA RAO

GP FOR ENDOWMENTS

Counsel for the Respondent No. 4: MR.M.VIDYASAGAR

The Court made the following:

ORDER:

This petition is filed seeking Writ of Certiorari calling for the records pertaining to the proceedings in Memo No.16181/Endts.II-2/95-4, dated 03-06-1995, issued by the first respondent and quash the same.

On representation submitted by the fifth respondent on 29-12-1993, the third respondent-Deputy Commissioner of Endowments, Hyderabad appointed the fifth respondent by proceedings L.Dis.No.A1/100045/93, dated 03-01-1994, as an Archaka of Sri Venkateshwara Swamy Temple, Kaman Bazar, Khammam. As against the said order, the petitioners herein preferred revision petition in R.P.No.34 of 1994 before the second respondent-Regional Joint Commissioner of Endowments Department, Multi Zone III, Hyderabad. The said revision petition was allowed by the second respondent by an order dated 04-02-1995, setting aside the order passed by the third respondent, dated 03-01-1994. In the said order, the second respondent had observed that in Column No.6 of the Register maintained under Section 38 of A.P.Charitable, Hindu Religious Institutions and Endowments Act, the names of the ancestors of the petitioners herein were mentioned as they were performing *archakathvam* on hereditary rights over the temple in question.

As against the same, the fifth respondent preferred a further revision before the Government and the Government while referring to the judgment in O.S.No.01 of 1983, on the file of the Additional District Judge at Khammam, set aside the order of the revisional authority i.e., the second respondent. In the very same impugned order, a report was called for from the Commissioner of Endowments by examining the records in O.A.No.28 of 1992.

It is submitted by the learned counsel appearing for the petitioners, Sri Ashok Anand Kumar, that in the Judgment rendered in O.S.No. 01 of 1983, on the file of the Additional District Judge at Khammam, there is no adjudication with regard to the hereditary rights of archakas In that view of the matter, though the first revisional authority i.e., the second respondent considered the issue with reference to entries made in the register, but the same was not taken note of by the Government and the impugned order was passed setting aside the orders of the revisional authority in R.P.No.34 of 1994.

It is stated in the counter-affidavit filed on behalf of the fifth respondent that the order passed by the Government cannot be termed as a final order inasmuch as a report is called for from the Commissioner of Endowments to examine the record in O.A.No.28 of 1992 and to submit a report.

A perusal of the impugned order passed by the Government shows that a report is called for from the Commissioner of Endowments after examining the record in O.A.No.28 of 1992, and at the same time the order under revision was also set aside. When the order impugned in the revision before the Government was passed with reference to the entries made in Column No.6 of the register maintained under Section 38 of the Act, there is absolutely no valid reason to set aside the order dated 04-02-1995 passed in R.P.No.34 of 1994, that too while calling for a report from the Commissioner of Endowments.

The Government ought to have considered the matter finally only after receipt of the report as called for in the impugned order. Further, I have gone through the Judgment in O.S.No.01 of 1983, on the file of the Additional District Judge

at Khammam. There is no positive finding with regard to the hereditary rights of any of the archakas. In that view of the matter, and also in view of the fact that a further report was called for from the Commissioner of Endowments, Hyderabad, by examining the records in O.A.No.28 of 1992, the impugned order dated 03-06-1995 passed in Memo.No.16181/Endts.II-2/95-4, is set aside, with further direction to the first respondent – revisional authority to consider the matter afresh by giving opportunity to both parties. It is for the Government to pass appropriate order as expeditiously as possible, preferably within a period of two months from the date of receipt of this order. However, status-quo as on today shall be continued with reference to the archakatvam in the temple in question.

The writ petition is accordingly allowed. No costs.

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17-08-2005.

Lrkm.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday the seventeenth day of February Two thousand and Five.

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ASSISTANT REGISTRAR

To

1. The Secretary, Government of Andhra Pradesh,

Revenue (Endow-II) Department, Secretariat

Buildings, Hyderabad.
2. The Regional Joint Commissioner of Endowments,

Department, Multi Zone - III Hyderabad.
3. The Deputy Commissioner of Endowments,
   Hyderabad.
4. The Executive Officer, Sri Venkateswara Swamy Temple
   Kaman Bazar Khammam.
5. 2 CD copies.

6. 1 CC to MR.ASHOK ANAND KUMAR

7. 2 CCs to the Government Pleader for Endowments, High

Court Buildings, Hyderabad (O.U.T)

Form-NIC-OGS/WP{SAM}